

**Effective 5/10/2016**

**53A-1a-705 Eligible private schools.**

- (1) To be eligible to enroll a scholarship student, a private school shall:
- (a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;
  - (b)
    - (i)
      - (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:
        - (I) the audit shall be performed in accordance with generally accepted auditing standards;
        - (II) the financial statements shall be presented in accordance with generally accepted accounting principles; and
        - (III) the audited financial statements shall be as of a period within the last 12 months; or
      - (B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:
        - (I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and
        - (II) working capital shall be calculated by subtracting current liabilities from current assets; and
    - (ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;
  - (c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;
  - (d) meet state and local health and safety laws and codes;
  - (e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including the cost of those services;
  - (f)
    - (i) administer an annual assessment of each scholarship student's academic progress;
    - (ii) report the results of the assessment to the student's parent; and
    - (iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53A-1a-704(6);
  - (g) employ or contract with teachers who:
    - (i) hold baccalaureate or higher degrees;
    - (ii) have at least three years of teaching experience in public or private schools; or
    - (iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:
      - (A) in the subjects taught; and
      - (B) to the special needs students taught;
  - (h) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53A-15-1503, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248 :
    - (i) an employee who does not hold a current Utah educator license issued by the board under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act;
    - (ii) a contract employee; and
    - (iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and
  - (i) provide to parents the relevant credentials of the teachers who will be teaching their students.
- (2) A private school is not eligible to enroll scholarship students if:

- (a) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or
- (b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).
- (3) A home school is not eligible to enroll scholarship students.
- (4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.
- (5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.
- (6) The board shall:
  - (a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and
  - (b) make available to the public a list of the eligible private schools.
- (7) An approved eligible private school that changes ownership shall submit a new application to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Amended by Chapter 44, 2016 General Session